THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.24920 OF 2006

DATED: 8TH December, 2006.

Between :

P. Ramulu ... Petitioner

And

The Commissioner of Prohibition & Excise,
Government of Andhra Pradesh, Hyderabad
And 3 others. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.24920 OF 2006

ORDER :

This writ petition is filed questioning the order dated 26-5-2006 passed by the 3rd respondent herein under Section 31 of the A.P. Excise Act, 1968 cancelling the licence of four shops as well as the depot of Tappers Co-operative Society, Kosgi Village and Mandal of Mahabubnagar District.

The said order was passed on the basis of the inspections conducted by the Prohibition & Excise Officials on 19-10-2004 in Shop No.2 as well as the toddy depot of the Society. In both the said inspections, the samples of toddy drawn were found to be adulterated with Chloral Hydrate in the spot test. Subsequently, the samples sent to the Government Chemical Examiner by the Officials of Prohibition & Excise, Hyderabad were also found to be adulterated with Chloral Hydrate. Accordingly, after issuing a show-cause notice the impugned order of cancellation was passed.

The learned Counsel for the petitioner contended that the impugned order is arbitrary and illegal since admittedly no samples were drawn from shop Nos.1, 3 and 4. The learned Counsel contended that on the basis of the samples drawn from toddy shop No.2, it cannot be concluded that the stocks available in shop Nos.1, 3 and 4 also are adulterated.

A perusal of the impugned order shows that in spite of service of show-cause notice dated 20-9-2005 the petitioner failed to submit his explanation and therefore on the basis of the material available,

particularly the report of the Government Chemical Examiner, the 3rd respondent had concluded that the petitioner had indulged in sale of adulterated toddy which is injurious to public health.

The learned Government Pleader for Prohibition & Excise under instructions stated that as a matter of fact challenging the impugned order of cancellation dated 26-5-2006 the petitioner preferred an appeal before the Deputy Commissioner of Prohibition & Excise, Mahaboobnagar and the same was dismissed on 21-7-2006.

Having heard the learned Counsel for the petitioner in detail, I do not find any justifiable reason to interfere with the concurrent finding of fact recorded by the respondents 2 and 3.

I do not find any merit in the other contention of the learned Counsel that the respondents ought to have confined the order of cancellation only in respect of Shop No.2 and depot since samples drawn from these two places were only found to be adulterated.

There can be no dispute that the purpose of establishing a depot is for pooling toddy so as to distribute the same to all the licensed shops of the society. Admittedly, the depot as well as 4 shops are being maintained by the petitioner society and the toddy depot is being used for pooling toddy. In the circumstances, the 3rd respondent cannot be found fault with in cancelling the licences of all the shops on the ground that the toddy stored in the depot was adulterated with Chloral Hydrate.

The impugned order, as confirmed by the 2nd respondent does not suffer from any infirmity warranting interference by this Court.

The Writ Petition is devoid of any merit and is accordingly dismissed. No costs.

G. ROHINI, J.

Dt. 8-12-2006
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